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Child Support Enforcement Program

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DEPARTMENT OF REVENUE



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Dear Employer:

In a spirit of bipartisan unity, the 1984 U.S. Congress gave states new tools for collecting the billions of dollars in child support that go unpaid every year. One of the most important provisions, passed by the 1985 Montana legislature, requires employers, upon notice from authorized officials, to deduct child support payments from their employees' wages. Wage withholding is proven and effective. It helps many children in need and hands the bill for their support to the responsible parent. . . not to taxpayers in the form of higher welfare costs.

Enclosed for your information is a guide on the wage withholding provision which takes effect October 1, 1985. Please familiarize yourself with this new law and the responsibilities employers have under it. With your cooperation and the cooperation of other employers, wage withholding can deliver a clear message: financial abandonment of children by wayward parents will no longer be tolerated in our society.

Thank you for helping in this effort that is so critical to Montana's children.

Sincerely yours,


John D. LaFaver
Director

Kids, They're worth every penny.

Income Withholding For Child Support

A Guide For Employers

Foreword

Fifteen million children in the United States live in single-parent households. Far too often the other parent is not fulfilling his or her legal obligation to pay child support. In 1981 alone, unpaid child support amounted to a staggering \$4 billion. In the same year, more than $\frac{1}{2}$ of all parents with support orders received less than the full amount due or no payments at all. As a result, many children go without the basic necessities of life and, with their custodial parent, are often driven to public assistance. Today, the welfare problem is, to a considerable extent, a problem of parents not supporting their children. Over the last 30 years welfare benefits for child support increased 2000%, from 617 million to over 12 billion annually. In FY84, 26 million dollars were spent in Montana alone. One of the most disturbing facts about this problem is that **many, many defaulting parents are employed and able to pay.**

Background

In 1975 the Congress passed major legislation that established the Child Support Enforcement program to: (1) ensure that children are supported by their parents, (2) foster family responsibility, and (3) reduce the costs of welfare to the taxpayer.

To continue to deal with the national problem of financially abandoned children, a new Federal law (the Child Support Enforcement Amendments of 1984), was enacted with unanimous bipartisan backing. This legislation is meant to strengthen State laws and put strong enforcement techniques in place.

The cornerstone of the new law is the requirement that all states establish a system for withholding portions of wages from parents who are delinquent in the payment of child support. In response to the federal mandate, the Montana Legislature passed the Child Support Enforcement Act of 1985. This act provides for automatic income withholding in those cases, being worked by the Department of Revenue's Child Support Enforcement Program, where the amount of overdue child support equals one month's support payment.

Withholding will occur without amendment to the Child Support Order and will take priority over any other demands or garnishment against the employee's income. The amount to be withheld is the amount of the current support obligation and an additional amount to defray arrearages. The total amount withheld, including a fee of up to \$5.00 (to the employer) may not exceed the limits set by the Consumer Credit Protection Act. The effective date of these new laws is October 1, 1985.

Income Withholding

Experience across the nation shows that income withholding is the most effective tool for enforcing child support obligations. Income withholding taps the parent's income at its source and becomes a regularly deducted item along with other deductions such as income taxes or social security. With regular wage deductions for child support, the children are assured of getting their support payments on time and in the correct amount. Built-up arrearages can be eliminated and a stable pattern of payment developed over a long period of time. In a recent report to Congress, \$3 out of every \$4 is collected when wage withholding is used.

Benefits to Employers

There are also benefits to employers as those who have had experience with wage withholding recognize. Wage withholding can:

- reduce the amount of time employees must be absent from the job for court appearances or administrative reviews in support disputes.
- enable employees to be more productive on the job by reducing the amount of psychological distress parents experience with missed payments.

- minimize administrative costs of the employer by replacing excessive paperwork with consolidated reporting.
- lessen the burden on the courts and other government agencies so that their resources can be used for other purposes.
- help to constrain the cost of government and attendant taxes by placing the responsibility for financially supporting children with the parents, not the taxpayer.

Clearly, in executing wage withholding for child support, employers are providing a valuable service to both the children and the taxpayers of the State of Montana and the Nation.



Questions

This guide answers some questions about employer responsibility under the Child Support Enforcement Act of 1985.

How will I be informed that I have to start withholding child support from an employee's wage?

You will receive a notice from the Department of Revenue's Child Support Enforcement Program which tells you when to begin, how much to deduct, and where to send the money.

Will I have to tell the employee?

The employee will already have received notice containing all the pertinent information of the forthcoming withholding action and will have been given a chance to contest the action.

How long after I receive the notice do I begin the withholding?

Withholding is to begin no later than the first pay period that occurs within 14 days after the mailing date of the notice, or on the date specified in the notice, whichever is earlier.

I pay my employees every two weeks. When do I send the payments to the withholding agency?

You may disburse the funds immediately or wait until the last day of that calendar month and send all amounts to the Child Support Enforcement Program.

Can I combine all the deductions I make in a pay period and send one check to the withholding agency?

Yes. The law states that whenever you are obligated to withhold income for more than one person, one check can be written for the total amount as long as you provide an itemized listing of the amount withheld from each person and the date it was withheld.

I am concerned that the withholding will add administrative costs to my business. May I charge a fee to the employee?

Yes. You may collect a fee to cover your costs. The maximum fee is \$5.00 and authorization will be stated in the notice. The fee can be deducted from the wage at the same time each support payment is withheld. The fee is to be deducted from the employee's wages, not from the support payment.

I would rather not get involved in withholding for child support. Can't I just refuse to hire someone who has a withholding against his wages?

No. If you refuse to hire or if you discipline or discharge an employee because of a required wage withholding for child support you will be subject to a fine of not more than \$500.00 or less than \$150.00. You could also be required to make full restitution to the employee, including reinstatement and backpay.

What will happen if I don't carry out the withholding?

If you fail to withhold wages as specified in the notice, you will be liable for the full amount, as it accumulates from the date of the notice.

How do I know when to stop the withholding?

The withholding remains in effect until you are notified by the Child Support Enforcement Program of any changes to the order.

If the employee tells me the amount to be deducted is wrong, what should I do?

You should tell the employee to contact the Department of Revenue, Child Support Enforcement Program. The employee has been told that he must contest the facts with the Child Support Enforcement Program, not the employer. Unless you are notified otherwise by the Department of Revenue, you should proceed with the withholding as ordered.

In addition to wages my employees are periodically paid a sales commission. Do I withhold child support from the commission?

Yes. Under Montana State Law, income means any form of periodic payment to a person including earnings and wages.

Several of my employees already have wage attachments against their paychecks and if I deduct for child support, the total deducted will be more than allowed under the law. How do I handle this situation?

By Montana law, withholding for child support under the Child Support Enforcement Act of 1985 takes priority over any other legal process including other child support income deductions from another state carried out under that State law against the same wages. This means the child support withholding must be done first, then the deductions for other withholding orders or garnishments can be made.

Is there any limit to the amount that can be withheld?

The total amount allowed to be withheld from any employee's pay check is limited to the amounts specified in the Consumer Credit Protection Act (CCPA). The limits provided in the CCPA are 50 percent of disposable earnings in the case of an absent parent who has a second family, and 60 percent if there is no second family. These limits are each increased by 5 percentage points (to 55 and 65) if there are accrued arrearages from the previous calendar quarter.

An employee comes to me after receiving his withholding notice and wants to make a voluntary assignment for child support. What should I do?

The employee has to direct this request to the Child Support Enforcement Program. He should contact the person named on the notice he received.

My employee says he never received notice informing him that the withholding was being put into effect. I have received a notice instructing me to begin withholding from the next paycheck. What should I do?

You should begin the withholding as instructed. The employee should be told to contact the agency that sent you the notice.

If I receive a withholding notice from another State, am I required to honor it?

Some States have long arm statutes that allow them to request withholding directly from employers in other States. You should honor that request, just as you do one from Montana. If you have questions, the Child Support Enforcement Program will be able to assist you. Keep in mind, however, that Montana's withholding process will take priority over other states.

What do I do when the employee leaves my employ?

You must notify the Child Support Enforcement Program promptly when the employee leaves, giving the employee's last known home address and new employer's name if known.



Contact

Montana's Child Support Enforcement Regional Offices will assist you with any additional questions or concerns.

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